

**Town of Milton
Town Council Special Meeting Minutes
December 16, 2002**

Mayor John F. Bushey called the special meeting to order at 7:00 p.m. at Town Hall.

Councilwoman Betts offered the opening prayer.

Mayor Bushey called the roll.

PRESENT: Mayor John Bushey
Councilman Charles Fleetwood
Councilwoman Leah Betts
Councilman Robert Blayney
Councilman Jerry Hudson
Councilman William Wright
Councilwoman Stephanie Parker

Others Present: Jocelyn Jenkins, Town Clerk
Eric Evans, Code Enforcer
Stephanie Coulbourne, Finance Clerk
Allen Atkins, Town Maintenance
Bob Kerr, Engineer

Workshop – Council, Planning & Zoning, and Michael Zimmerman Regarding Food Lion Project

Councilman Blayney thanked Mr. Zimmerman and staff for attending this meeting to address concerns.

A brief overview of the article by Ed McMahon (land use expert). Mr. Zimmerman was given copies of the pictures on sign usage

Reference was made to Don Post's letter to the Cape Gazette. Also, a citizen wrote a letter to Councilman Blayney asking for:

- 4 foot berms
- use of full cut off lighting in the parking lot after hours
- use of Hazzard property for blend lanes to and from center
- proper trash control, maintaining all landscaping, cut off parking lot after hours

Michael Zimmerman stated that with regard to the landscape, he has been given a one-year warranty by the professional landscaper. Food Lion requires irrigation of the plants. The lease agreement states that trash pick up will be 4 times per week.

With regard to berming, they are already higher than car lights. He is willing to raise them from 2 feet to 2 ½ feet. The maximum to mow is 3 to 1 slope. However, we need to watch the height of the berm plus the height of the plants. All buildings are brick

exterior. They will put canvas on the front of the storefronts to go with maritime if wanted.

Mayor Bushey gave a clarification on the moratorium.

Mr. Zimmerman went over all the avenues he has gone through several times. He will work with people to do the best they can.

Councilman Fleetwood asked if anything is being built along the front or back.

Mr. Zimmerman stated no.

Councilman Hudson asked if Happy Harry's will brick, not stucco? Mr. Zimmerman stated that that is correct. Councilman Hudson asked who is responsible for the maintenance. Mr. Zimmerman stated that he is. Councilman Hudson asked about the canvas fading. Mr. Zimmerman stated that it will fade. Brick will last longer and is more expensive than canvas. But, he is willing to go to canvas; it will save him \$100,000.

Councilman Hudson asked if there will be canvas over the sidewalk. Mr. Zimmerman stated yes. He can back to the architect again, if council wishes. Councilman Hudson asked if the roof will be visible? Mr. Zimmerman stated it will not be visible. It will have a flat roof.

Councilman Hudson asked if the refrigeration units will be on the outside and if there will be noise? Mr. Zimmerman stated that they will be outside on the roof. There could be noise on the roof from the units. He stated that this Food Lion is smaller than the Bridgeville store.

Councilman Blayney asked Mr. Zimmerman to repeat what he stated before about signage, landscaping, etc. Mr. Zimmerman stated that he will do what council has previously.

Councilman Hudson asked if the buildings will be built at the same time.

Mr. Zimmerman stated that the buildings will all be built at once.

Mayor Bushey asked what the three tenants were? Mr. Zimmerman stated that the tenants will be Happy Harry's, Food Lion, and Family Dollar. Councilwoman Betts asked that Mr. Zimmerman explain the signs, height, and where. Mr. Zimmerman noted that the plans for height are not available tonight. He gave out the plans and showed where the signs will go.

Linda Rogers of Planning & Zoning asked if there is a designated area for cart return? Mr. Zimmerman stated that there is an area for cart return and parking for expectant mothers. Linda Rogers asked additional questions about exits at other Food Lion's, etc. Mrs. Rogers asked where sidewalks are going? Mr. Zimmerman stated that sidewalks will go along Route 5 in front of the stores at the entrance. She asked if they will put sidewalks on Route 16? Mayor Bushey noted that the ordinance states that sidewalks

need to be on the outside of the lot, not interior. Mr. Zimmerman stated that they will change that if required. Mrs. Rogers asked if the stores will have individual signs. Mr. Zimmerman said that they will have channel letters on raceway.

Mrs. Rogers asked if shrubs could be put around the fence that will go around the pond. Mr. Zimmerman stated that that area will not be a main entrance. The pond will be attractive. The Town does require fencing all around the pond. Mrs. Rogers asked if the curbing at the entrance will be landscaped? Mr. Zimmerman stated it will not.

Michael Filicko of Planning & Zoning stated that he would like to see photos, slides, or power point to see what the building will look like. Mr. Zimmerman noted that the architect was not ready for tonight's meeting, but if he had been asked, he would have brought photos. Mr. Filicko requested that photos be shown at the December 17 Planning & Zoning meeting. Mr. Zimmerman will do his best. Mr. Filicko stressed that Planning & Zoning needs to see what the signs will look like as well. Mr. Zimmerman will bring drawings of those.

John Hopkins of Planning & Zoning asked what colors of tin will be used? Mr. Zimmerman stated that he will work on the colors with the Town.

Denny Hughes of Planning & Zoning asked if the reserved sites (Phase II) will have to come before Council and Planning & Zoning? Mr. Zimmerman stated yes and they will come back for the front stores.

Mr. Zimmerman asked that Council pick two or three people and he'll provide colors for them to approve.

Mayor Bushey asked if there were any other questions. Councilman Blayney asked if Mr. Zimmerman could provide a photo of the Bridgeville store. Mr. Zimmerman will provide one.

Councilman Fleetwood and Councilman Hudson both like the metal roof better.

Mr. Zimmerman noted that if the residents have problems or concerns, they can call the Superintendent or himself.

Councilman Fleetwood asked what the other reserved sites would be? Mr. Zimmerman stated possibly a Domino's, Dry Cleaner, Video Store.

Dogfish Head Brewery Regarding Wastewater Discharge

Mayor Bushey advised Council of the letter sent to Dogfish Head regarding the waste. Sam Calagione of Dogfish Head Brewery was present.

It was noted by Dogfish Head engineers (McCrone) that they were retained by Dogfish Head on November 27, 2002. He asked that Council keep an open mind. DNREC feels

that Dogfish Head's plan is appropriate. The engineer asked that Council rescind the decision and provide Dogfish Head time to comply.

It was noted that West Associates was retained by McCrone. A representative from West Associates stated that they first met on December 3, 2002 and read the letter. They had two weeks to review the brewery operation. A plan has been developed regarding the discharge. There was a lack of information during the last 12 months that caused a problem. There is no doubt that there is a problem at Dogfish Head that could have been avoided. Dogfish Head will release lab results to the Town. Also, a discharge permit will need to be issued by the Town to Dogfish Head.

Mayor Bushey noted that the letter was sent so the Town did not get dumped on.

Representative from West Associates stated that there would not have been any violations if it had been spray irrigated. Dogfish Head did not realize the limitations they were given. They need to have time to clear up the problem.

There was some discussion regarding B.O.D. It was noted that Dogfish Head took immediate action upon receiving the letter. They were taking steps they believed were appropriate. They tried adding their own "bugs", but there was not enough room to do the job. Sam Calagione stated that Clean Delaware is pumping every two weeks. The barley is being sent to farms for cows.

Representatives from West Associates stated that nothing that has been done has been permanent damage to the plant. West Associates has met with Peter Hansen from the Division of Water Resources. There have been violations, but DNREC is not too concerned because they have not been big violations. There has not been more than the plant is allowed to discharge.

Councilman Wright asked if the State will go along with the violations if we follow the guidelines. West Associates representative stated yes, they have given Dogfish Head guidelines to follow to clear up the problem. DNREC wants to see a permit issued by the Town and a schedule set and followed by Dogfish Head and the Town. DNREC wants to be a part of the process.

Mayor Bushey stated that a permit with conditions and a schedule need to be issued.

West Associates representative noted that the plan is two parts:

- 1.) Take enough of the load off of the plant to be in compliance
- 2.) Collect any liquid that is high B.O.D. before it mixes with the water to lessen B.O.D.

Councilman Hudson asked if the waste could be land applied outside of Town limits? West Associates answered that farms are available outside of Town.

Councilman Blayney asked if these steps could be done by January 3, 2003? West Associates noted that land application will take time and approval by DNREC. Testing will have to be done and submitted. The public will need to be notified in the paper. The process will take 90 to 120 days to get through.

Councilwoman Betts asked what effect the delay will have on the plant? West Associates is not sure if equalization will solve the problem, but it will help.

Councilwoman Betts asked if we comply with Dogfish Head's request if they will make sure this does not happen again. West Associates replied that there will be more information on the table for the future. They are asking for consideration to fix the problems.

Councilman Fleetwood and Mayor Bushey agreed that Dogfish Head is the first industrial waste the Town has had.

Councilman Blayney asked if DNREC realizes that we need four months to get on track? West Associates stated that DNREC will allow the time needed.

Mayor Bushey asked Bob Kerr what CAB thinks? Mr. Kerr stated that he did tour the brewery. When he met with the brewery, he was told the grains would be out on a trailer. This has not been done. DNREC does not want to enforce action. EPA can come at anytime and charge violations. Allen Atkins is doing samples at the best days of the week. DNREC knows all of this. It is the Council's pleasure what they want to do. A 60-90 day timeframe is conservative. DNREC will not shut it down, but they are watching it closely.

Councilman Wright asked if DNREC will give us a letter that they will allow us time to correct the problem? Mayor Bushey reported that DNREC is very supportive based on his experience. If Council elects to extend 120 days, fines would be absorbed by Dogfish Head. Councilman Hudson asked if Plan A works if they will continue? It was stated that will be on an on-going basis. West Associates stated that when the steps were complete, B.O.D. will be down to the single digits. The tanks and pumps can be set up very soon.

Councilman Wright asked if the brewery is running at full capacity? Sam Calagione stated, no but they are on track with the growth estimated. Mr. Kerr noted that the flow that was talked about was 3,500 gallons a day every day. Some days the flows have been 7,000 gallons. Mr. Calagione stated that there were times of large volume when they had plant problems and beer had to be trashed.

Councilman Hudson asked if Mr. Calagione has worked with the Town. Mr. Atkins stated they have worked with the Town, there has just not been any resolution.

Mr. Kerr will work with Mr. Atkins on a permit within the timeframe asked. West Associates representative stated if it is not done within the time, they will be back with answers.

Mr. Kerr noted that it will take approximately 90 days to get the permit.

Councilman Hudson asked if Dogfish Head would agree if we gave the extension with fines being paid by Dogfish Head. Mr. Calagione understands the reasons for the decisions by Council. Dogfish Head has met with DNREC. He is confident this will work. If fines are issued, Dogfish Head will be responsible if caused by the brewery.

Mr. Kerr recommended that by mid to the end of January design of the collection system should be done. The permit from DNREC should be done by the end of February. Council should reconsider this issue at the February meeting. Mr. Kerr suggested that Council give Dogfish Head until February 15.

Councilman Hudson made a **motion** to remove the letter off the system, seconded by Councilwoman Parker.

Motion carried – “Aye”

Councilman Hudson made a **motion** to grant an extension until February 15 and start the process at the January meeting with DNREC and the Town. With the understanding that if fined within the time, Dogfish Head will reimburse the Town. Councilman Blayne seconded the motion.

Mr. Kerr made sure that Mr. Calagione acknowledges that we remove the letter and that he understands to comply.

The representative from West Associates reminded Council that they will get status reports for January and February.

The question was called on the motion.

Motion carried – “Aye”

CABE Associates Regarding Water Treatment Change Order Needed

A change order for improvements to water treatment was discussed in the amount of \$7199.56. This change order includes pipe fittings for well houses 2 and 4; additional masonry work for chemical storage; new lights, sub-panel, and new water meter for well house 4.

Councilman Fleetwood made a **motion** to accept the change order, seconded by Councilman Wright.

Motion carried – “Aye”

There was discussion regarding Sam Lucas and the water situation.

Mayor Bushey asked which district this road is in and the cost? Councilwoman Betts stated that it is in Gary Simpson and George Carey's districts. Councilman Blayney asked what the deadline date is? Councilman Blayney asked what the deadline date was? The deadline date is December 21. Mayor Bushey asked Council if they want to proceed? Council does want to proceed.

Councilman Wright asked if the fire hydrants have been replaced? Mr. Kerr stated that 7 hydrants have been replaced. Mayor Bushey stated that we will not do this if a match is not found. Agencies can help with the funds for impact fees. Councilman Hudson asked if the residents want this? Mayor Bushey stated that the residents do want this very much because the water quality is very poor.

Councilman Fleetwood made a **motion** to proceed if a 20% match is found. Councilman Wright seconded the motion.

Motion carried – "Aye"

Mr. Kerr reported that the UV results will be given to the Mayor. Mr. Atkins reported that the parts have been ordered for the lift station.

Mayor Bushey reported that the water tower agreement will be signed tonight.

There was some discussion regarding giving a check to the Fire Department in the amount of \$500.

Councilwoman Betts made a **motion** to give a check for \$500 to the Fire Company, seconded by Councilman Blayney.

Motion carried – "Aye"

Adjournment

A **motion** was made, seconded, and carried to adjourn the meeting at 9:25 p.m.

Respectfully submitted,

Dawn Johnson
Administrative Assistant

:2/26/03